



**ARIZONA STATE SENATE**  
*Fifty-Fifth Legislature, First Regular Session*

**AMENDED**  
FACT SHEET FOR S.B. 1417

health care directives; contact orders

Purpose

Establishes contact requirements and restrictions for agents and individuals who have a significant relationship to the principal of a health care directive (principal). Permits an individual who has a significant relationship with the principal to petition the court for an order to compel an agent to allow contact with the principal.

Background

A *health care directive* is a document, such as a living will or mental health care power of attorney, that is drafted to deal with a person's future health care decisions. Statute allows an individual to execute a prehospital medical care directive that, in the event of cardiac or respiratory arrest, directs emergency medical system personnel, hospital emergency department personnel and direct care staff to withhold cardiopulmonary resuscitation (CPR). CPR includes: 1) cardiac compression; 2) endotracheal intubation; 3) artificial ventilation; 4) defibrillation; 5) administration of advanced cardiac life support drugs; and 6) any other advanced airway management ([A.R.S. § 36-3251](#)).

An *agent*, as the term relates to health care directives, is an adult who has the authority to make health care treatment decisions for another person, referred to as the principal, pursuant to a health care power of attorney. Any adult is permitted to designate another adult as their agent who is authorized to make health care decisions on that person's behalf, or to provide funeral and disposition arrangements in the event of the person's death, by executing a written health care power of attorney that meets specified criteria ([A.R.S. § 36-3221](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Requires an agent who is appointed under a health care directive to encourage and allow contact between the principal and other individuals who have a significant relationship with the principal, unless such contact is inconsistent with the express direction of the principal.
2. Permits an agent to restrict or prohibit contact between the principal and any individual if the agent believes that the contact will be detrimental to the principal's health, safety or welfare.
3. Requires an agent to consider the wishes of the principal, if the principal has sufficient mental capacity to make an intelligent choice, when making decisions regarding contact between the principal and those with a significant relationship to the principal.

4. Allows a person who has a significant relationship with the principal to petition the court for an order to compel the agent to allow the person to have contact with the principal.
5. Allows a principal to petition the court for an order to compel the agent to allow the principal to have contact with a person who has a significant relationship with the principal.
6. Places the burden of proving the existence of a significant relationship with the principal and that the contact is in the principal's best interest on the petitioning party.
7. Requires that a petition to compel contact includes a description of the relationship between the petitioner and the principal and the frequency and type of contact being requested.
8. Directs the court, when determining if any contact between a person and the principal is in the principal's best interest, to consider all factors that are relevant to the principal's physical and emotional well-being, including:
  - a) the past and present relationship between the principal and the person with whom contact is requested;
  - b) the wishes of the principal, if they have sufficient mental capacity;
  - c) the mental and physical health of the principal and the person with whom contact is requested; and
  - d) whether the person with whom contact is requested:
    - i. has committed specified criminal acts or offenses;
    - ii. has abused drugs or alcohol; or
    - iii. is included or required to be included in the Elder Abuse Central Registry.
9. Authorizes the court, on the filing of a petition to compel an agent to allow contact, to:
  - a) appoint an attorney or guardian ad litem for the principal if it appears to be in the principal's best interest;
  - b) appoint an investigator, a physician, or both, to evaluate the principal and submit a written report to the court before the hearing; and
  - c) enter any temporary order as determined necessary and appropriate by the court to protect the wishes or best interests of the principal, including orders to exercise the powers of or to appoint a guardian.
10. Permits an agent, a court-appointed fiduciary for the principal or a person who has a significant relationship with the principal to do the following, if a material change in circumstances regarding the principal's health, safety or welfare occurred since the order was entered:
  - a) petition the court to modify a contact order; or
  - b) file a motion to temporarily modify or suspend a contact order.
11. Establishes that a petition or motion to modify, temporarily modify or suspend a contact order must be supported by an affidavit alleging the change of circumstances that occurred since the order was entered.
12. Specifies that a motion to temporarily modify or suspend a contact order must be contemporaneously filed with or after a petition to modify a prior contact order.

13. Requires that a motion to temporarily modify or suspend a contact order includes a statement regarding whether the petitioner requests that the prior contact order be modified or suspended without notice to affected parties.
14. Requires the court to deny a petition to modify a contact order unless the court finds that the petition establishes good cause for a hearing.
15. Directs the court to set a hearing if good cause is established and to serve notice of the petition hearing on all required individuals and any court-appointed fiduciary for the principal.
16. Authorizes the court to temporarily modify or suspend a contact order without notice if:
  - a) it clearly appears from specific facts shown in the motion or affidavit that immediate and irreparable injury, loss or damage will likely result if the order is not issued prior to the affected individuals being heard in opposition; or
  - b) the moving party or their attorney certifies the efforts made to provide notice or the reasons supporting the claim that the notice should not be required.
17. Directs the court to set a hearing on a motion if the court grants a motion to temporarily modify or suspend a contact order without notice.
18. Requires that an order to temporarily modify or suspend a contact order that is granted without notice states the injury, loss or damage that would likely occur if the order was not issued prior to giving the affected individuals the opportunity to be heard in opposition.
19. Expires a temporary order at the time and date set for the hearing on the motion unless the order is extended by the court for good cause.
20. Obligates the moving party to:
  - a) personally serve a copy of the order and notice of the hearing on the person whose contact with the principal is being modified or suspended; and
  - b) have a copy of the order served as prescribed on any court-appointed fiduciary for the principal and all affected persons as soon as practicable after issuance of the order.
21. Allows the court, upon notice and hearing, to enter orders to assess court costs, reasonable attorney fees and the cost of any appointed evaluating professionals.
22. Defines relevant terms.
23. Becomes effective on the general effective date.

Amendments Adopted by Committee

1. Clarifies that encouragement and permissibility of contact must be consistent with a principal's express directions.
2. Allows the court to appoint a guardian ad litem if it is in a principal's best interest.
3. Eliminates proposed language permitting the court to specified orders.

Senate Action

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Prepared by Senate Research  
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